

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE: ZYTIGA LITIGATION

Master Docket No.  
**19-cv-12107-KM-ESK**

This Document Relates To:

**ORDER**

All Actions.

**THIS MATTER** having come before the Court on the joint motion to stay discovery filed by all defendants in the consolidated actions (Motion) (ECF No. 130); and plaintiffs in the consolidated actions having filed a letter brief which proposes the initiation of limited discovery (ECF No. 131); and a hearing having been held on May 18, 2021 (ECF No. 125); and for the reasons stated on the record,

**IT IS** on this **19th** day of **May 2021** **ORDERED** that:

1. As to *KPH Healthcare Services, Inc. v. Janssen Biotech, Inc.*, case number 20-cv-05901, also referred to as the “Direct Purchaser Class Action” (ECF No. 129 p.2), discovery is hereby stayed until further order of the Court.
2. As to both *United States ex rel. Silbersher v. Janssen Biotech, Inc.*, case number 19-cv-12107, also referred to as the “Qui Tam Action” (*id.*), and *Louisiana Health Service & Indemnity Co. v. Janssen Biotech, Inc.*, 19-cv-14146, also referred to as the “End-Payor Class Action” (*id.*), discovery shall proceed as follows:

- a. The parties shall meet, confer, and jointly submit, by **June 21, 2021**, (1) a proposed discovery confidentiality order and (2) an agreed-upon ESI protocol for the Court’s review and approval. Any dispute concerning the inclusion, scope, and language of any section of either the order or protocol shall be brought to the Court’s attention by a joint letter setting forth the parties’ respective proposals and positions. Counsel are urged to include a chart or table so that any competing terms or sections may be presented in a clear manner.

- b. The parties shall produce the following discovery by **July 21, 2021**:
  - (1) documents from the underlying patent litigation, Patent and Trademark Office, and Patent and Trademark Appeal Board proceeding, including: (a) discovery documents and privilege logs; (b) transcripts of court proceedings and depositions; (c) expert reports; and (d) unredacted copies of sealed or redacted pleadings;
  - (2) patent prosecution files as to certain relevant patents (to the extent not subsumed in (1)(a) above); and
  - (3) documents concerning the relevant patent filings, such as memoranda and presentations relating to any response to or request for information from the Patent and Trademark Office and Patent and Trademark Appeal Board (to the extent not subsumed in 1(a) above).
- c. The parties shall serve initial requests for production by **August 27, 2021**. Unless otherwise ordered by the Court, no responses to the requests are due until **30 days** following decision on the pending motions to dismiss.
- d. Within **20 days** following decision on the pending motions to dismiss, the parties shall submit a Rule 26(f) report, including joint or competing schedules for the remainder of the case through trial.

3. A telephone status conference is scheduled for **August 25, 2021 at 2:00 p.m.** before Magistrate Judge Edward S. Kiel. The dial in number is 1-888-684-8852 and the access code is 310-0383#. The parties shall file a joint letter, at least three business days before the conference advising of the status of discovery, any pending motions, and any other issues to be addressed.

4. The parties are directed to Rule 26(f) and Local Rule 26.1, which address preservation of discoverable information, discovery of electronically stored information, claims of privilege or work product protection, and the obligations of counsel concerning their clients' information management systems.

5. The parties are directed to the Court's Civil Case Management Order for procedures concerning discovery disputes, motion practice, and requests for extensions and adjournments.

6. The Clerk of the Court is directed to terminate the Motion at **ECF No. 130.**

/s/ *Edward S. Kiel*  
**EDWARD S. KIEL**  
**UNITED STATES MAGISTRATE JUDGE**